

News Release



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Labor Department Publishes Rules for Multiple Employer Welfare Arrangements

WASHINGTON – The U. S. Department of Labor’s Employee Benefits Security Administration (EBSA) today published final rules to enhance the ability of the department and state insurance regulators to protect workers and their families against health insurance scams.

“This Administration is doing everything in its power to combat fraudulent health insurance plans, and these new rules give us an important new weapon in this battle,” said Secretary of Labor Elaine L. Chao. “We also need to create safe and reliable Association Health Plans that will give small businesses an affordable alternative to these risky schemes.”

The new rules set out the criteria for states and unions to determine whether a health benefit plan is collectively bargained and, thereby, exempt from state regulations governing multiple employer welfare arrangements (MEWAs). Such collectively bargained plans are solely regulated by federal employee benefits law.

“For years, unscrupulous operators of MEWAs have manipulated the law to escape state regulation and delay enforcement,” said Ann L. Combs, assistant secretary for EBSA. “The new rules provide objective criteria to distinguish between legitimate collectively bargained plans and fraudulent health arrangements marketed by sham unions. These new rules will reduce the risk of losses to workers and employers by creating a better environment for states to pursue illegitimate entities.

“The department will continue its efforts to reduce health care fraud through outreach and education to employers, aggressive law enforcement, and increased cooperation with state enforcement agencies,” Combs said.

Although the Employee Retirement Income Security Act (ERISA) generally provides states the ability to require MEWAs to comply with state insurance laws, states cannot regulate health plans that the Secretary of Labor finds are established or operated under collective bargaining agreements.

Under the final rules, states may use the new criteria to determine whether an organization that markets health benefits to the public is a health plan that is collectively bargained. In addition, the rules establish an administrative hearing process that health plans can use in cases where they claim states have improperly determined their status.

The agency also published final rules on reporting by MEWAs and to implement penalties for failure to file M-1 annual reports. The reporting requirement assists the department and state insurance departments identify fraudulent MEWAs, correct violations, and restore unpaid benefits to workers and their families. The M-1 database is available on the department’s website at www.dol.gov/ebsa. Failure or refusal to file the report could result in a penalty of \$1,100 per day.

The final rules are the product of a negotiated rulemaking process that involved representatives of organized labor, employers, and state insurance departments. Both the MEWA and M-1 regulations are scheduled to be published in the April 9, 2003 *Federal Register*.

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